

Testimony for SB 14:

Delivered Feb. 10, 2021

Senate Judiciary Committee

Thank you, Madam Chair, and thank you to the committee for the opportunity to testify on Senate Bill 14. I am Michael Garvey, Advocacy Director for the American Civil Liberties Union of Alaska, which protects the civil rights and individual liberties enshrined in the U.S. and Alaska Constitutions.

The Alaska constitution created a judicial system based on merit and independence. The Judicial Council is central to carrying out these values.

We are concerned at the ways SB 14 would increase the influence of politics on Alaska's courts, and undermine the state's long revered merit selection system. Specifically, we are concerned that the bill would:

- Allow a governor to appoint judges who were not nominated by the Judicial Council as the most qualified.
- Require legislative confirmation of these appointees.
- Force Judicial Council nominees to pass an ideological litmus test.
- And put the Commission on Judicial Conduct in charge of providing recommendations for retention elections, rather than the Judicial Council, which already considers the Commission's work.

It is clear how SB 14 would increase the influence of politics on the courts were it to pass. Filling judicial openings will be based on who can be confirmed, rather than who is most qualified. It will become a new animating factor in how the House and Senate organize. And the legislature will be empowered to enforce the bill's ideological test, which amounts to telling judges how to do their jobs.

Our objection to this bill is not partisan. It is anchored by the fact that Alaska's framers, working with knowledge of how almost every other state's judiciary functioned, deliberately chose to adopt strong measures to keep Alaska's courts independence and insulate them from the vagaries of the political process. Our courts have operated exceptionally well under this system. The practical effect of SB 14 would be to weaken the performance of the state's judiciary, while opening the system to the influence of whoever occupies the governor's office and whoever holds power in the legislature — the opposite of what the framers intended. For these reasons, we oppose SB 14.

Thank you for the opportunity to provide this testimony.